

HOUSE BILL 3155
By McCormick

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 39, Part 2, relative to the "Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Monitoring Act of 2004" and violent offenders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-39-201, is amended by deleting the section in its entirety and substituting instead the following:

(a) This part shall be known as and may be cited as the "Tennessee Sexual Offender, Violent Sexual Offender and Violent Offender Registration, Verification, and Tracking Act of 2006."

(b) The general assembly finds and declares that:

(1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are violent sexual offenders who present an extreme threat to the public safety. Sexual offenders pose a high risk of engaging in further offenses after release from incarceration or commitment, and protection of the public from these offenders is of paramount public interest. The commission of violent offenses demonstrates the offenders disregard for the safety and life of others thereby making such offender and the offender's callous disregard for law enforcement personnel, intended victims as well as innocent bystanders a continuing threat to the safety and welfare of society;

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of sexual and violent offenses

collected pursuant to this part, to allow members of the public to adequately protect themselves and their children from these persons;

(3) Persons convicted of these sexual and violent offenses have a reduced expectation of privacy because of the public's interest in public safety;

(4) In balancing the sexual offender's, violent sexual offender's and violent offender's due process and other rights against the interests of public security, the general assembly finds that releasing information about offenders under the circumstances specified in this part will further the primary governmental interest of protecting vulnerable populations from potential harm;

(5) The registration of offenders, utilizing complete and accurate information, along with the public release of specified information concerning offenders, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders;

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of offenders and for the public release of specified information regarding offenders. This policy of authorizing the release of necessary and relevant information about offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive;

(7) The offender is subject to specified terms and conditions that are implemented at sentencing, or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year; and

(8) The general assembly also declares, however, that in making information about certain offenders available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on any such offenders.

SECTION 2. Tennessee Code Annotated, Section 40-39-202, is amended by deleting the third sentence of subdivision (2) and substituting instead the following:

A conviction for an offense committed in another jurisdiction that would be classified as a "sexual offense" under subdivision (17), a "violent sexual offense" under subdivision (25), or a "violent offense" under subdivision () if committed in this state, shall be considered a "conviction" for the purposes of this part.

SECTION 3. Tennessee Code Annotated, Section 40-39-202, is further amended by deleting subdivision (9) and substituting instead the following:

(9) "Offender" means "sexual offender", "violent sexual offender", and "violent offender" unless otherwise designated. An offender who qualifies both as a sexual offender and a violent sexual offender or as a violent offender and a violent sexual offender shall be considered a violent sexual offender;

SECTION 4. Tennessee Code Annotated, Section 40-39-202, is further amended by adding the following new subdivisions to be appropriately numbered:

() "Violent offender" means a person who has been convicted in this state of committing a violent offense as defined in subdivision (); or has another qualifying conviction as defined in subdivision (2); provided, that:

(A) The conviction occurs on or after January 1, 2007; or

(B) If the conviction occurred prior to January 1, 2007, the person:

(i) Remains under or is placed on probation, parole, or any other alternative to incarceration on or after January 1, 2007;

(ii) Is discharged from probation, parole, or any other alternative to incarceration on or after January 1, 2007; or

(iii) Is discharged from incarceration without supervision on or after January 1, 2007;

() “Violent offense” means:

(1)

(A) First degree murder;

(B) Second degree murder;

(C) Aggravated vehicular homicide;

(D) Especially aggravated kidnapping;

(E) Especially aggravated robbery;

(F) Aggravated arson;

(G) Aggravated kidnapping;

(H) Especially aggravated burglary;

(I) Aggravated child abuse;

(J) Any other felony offense where serious bodily injury or death is an element of the offense; or

(K) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision ();

(L) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision ();

(M) Criminal responsibility, under § 39-11-402(2), for any of the offenses enumerated in this subdivision (); or

(N) Being an accessory after the fact, under § 39-11-411, to any of the offenses enumerated in this subdivision ();

(2) For purposes of this definition, the offenses which were repealed on November 1, 1989, and are listed in § 40-35-118 as Class A or B felonies against a person are classified as violent offenses.

SECTION 5. Tennessee Code Annotated, Section 40-39-203, is amended by deleting subsection (i)(6) and substituting instead the following:

(6) Sexual offenses, violent sexual offenses or violent offenses for which the registrant has been convicted and the county and state of each conviction;

SECTION 6. Tennessee Code Annotated, Section 40-39-204, is amended by deleting from the first sentence of subsection (c) the language “all sexual offenders” and substituting instead the language “all sexual offenders and violent offenders”.

SECTION 7. Tennessee Code Annotated, Section 40-39-206, is amended by designating the existing language of subsection (c) as (c)(1) and by adding the following new subsection (c)(2):

(2) For all violent offenses committed prior to January 1, 2007, except as otherwise provided in subsections (a) and (b), information reported on the TBI registration form shall be confidential; provided, that the TBI, a local law enforcement agency, or a law enforcement agency of any institution of higher education may release relevant information deemed necessary to protect the public concerning a specific offender who is required to register pursuant to this part.

SECTION 8. Tennessee Code Annotated, Section 40-39-206, is further amended by designating the existing language of subsection (e) as (e)(1) and by adding the following new subsection (e)(2):

(2) For all violent offenses committed on or after January 1, 2007, the information concerning a registered offender set out in subdivisions (e)(1) shall be considered public information. In addition to making such information available in the

same manner as public records, the TBI shall prepare and place the information on the state's Internet homepage. This information shall become a part of the Tennessee internet criminal information center when such center is created within the TBI. The TBI shall also establish and operate a toll-free telephone number, to be known as the "Tennessee Internet Criminal Information Center Hotline," to permit members of the public to call and inquire as to whether a named individual is listed among those who have registered as offenders as required by this part. The following information concerning a registered offender is public:

- (A) The offender's complete name, as well as any aliases;
- (B) The offender's date of birth;
- (C) The violent offense or offenses of which the offender has been convicted;
- (D) The primary and secondary addresses, including the house number, county, city, and ZIP code in which the offender resides;
- (E) The offender's race and gender;
- (F) The date of last verification of information by the offender;
- (G) The most recent photograph of the offender that has been submitted to the TBI SOR;
- (H) The offender's driver license number and issuing state, or any state or federal issued identification number;
- (I) The offender's parole/probation officer; and
- (J) The name and address of any institution of higher education in the state at which the offender is employed, carries on a vocation or is a student.

SECTION 9. Tennessee Code Annotated, Section 40-39-207, is amended by deleting the section in its entirety and substituting instead the following:

(a) No sooner than ten (10) years after termination of active supervision on probation, parole, or any other alternative to incarceration, or no sooner than ten (10) years after discharge from incarceration without supervision, an offender required to register under this part may file a request for termination of registration requirements with TBI headquarters in Nashville.

(b) Upon receipt of the request for termination, the TBI shall review documentation provided by the offender and contained in the offender's file and the SOR, to determine whether the offender has complied with the provisions of this part. In addition, the TBI shall conduct fingerprint-based state and federal criminal history checks, to determine whether the offender has been convicted of any additional sexual offenses, as defined in § 40-39-202(17), violent sexual offenses, as defined in § 40-39-202(25), or violent offenses, as defined in § 40-39-202().

(c) If it is determined that the offender has not been convicted of any additional sexual offenses, violent sexual offenses or violent offenses during the ten-year period, and that the offender has substantially complied with the provisions of this part and any previous versions of this part, the TBI shall remove the offender's name from the SOR and notify the offender that the offender is no longer required to comply with the provisions of this part.

(d) If it is determined that the offender has been convicted of any additional sexual offenses, violent sexual offenses or violent offenses during the 10-year period or has not substantially complied with the provisions of this part and the previous versions of this part, the TBI shall not remove the offender's name from the SOR and shall notify the offender that such offender has not been relieved of the provisions of this part.

(e) Immediately upon the failure of a sexual offender or violent offender to register or otherwise substantially comply with the requirements established by this part,

the running of such offender's ten-year reporting period shall be tolled, notwithstanding the absence or presence of any warrant or indictment alleging a violation of this part.

(f) An offender whose request for termination of registration requirements is denied by a TBI official may petition the chancery court of Davidson County or the chancery court of the county where the offender resides, if such county is in Tennessee, for review of such decision. Such review shall be on the record used by the TBI official to deny the request. The TBI official who denied the request for termination of registration requirements may submit an affidavit to the court detailing the reasons such request was denied.

(1) An offender required to register under this part shall continue to comply with the registration, verification, and tracking requirements for the life of that offender, if that offender:

(A) Has one (1) or more prior convictions for a sexual offense, as defined in § 40-39-202(17) or violent offense as defined in § 40-39-202();
or

(B) Has been convicted of a violent sexual offense, as defined in § 40-39-202(25).

(2) As used in subdivision (f)(1), "prior conviction" means any conviction for a sexual offense, violent sexual offense or violent offense, as defined in § 40-39-202(17), (25) and (), respectively, that occurred prior to the date of the offense for which the offender is currently required to register.

SECTION 10. Tennessee Code Annotated, Section 40-39-208, is amended by deleting subsection (h) and substituting instead the following:

(h) The records custodian providing copies of records to a requesting agency, pursuant to subsection (g), shall attach the following certification:

I, _____, HAVING BEEN APPOINTED BY THE DIRECTOR OF THE TENNESSEE BUREAU OF INVESTIGATION AS CUSTODIAN OF THE BUREAU'S CENTRALIZED RECORDS SYSTEM OF SEXUAL, VIOLENT SEXUAL AND VIOLENT OFFENDERS, REGISTRATION, VERIFICATION AND TRACKING INFORMATION (SOR), HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RECORDS MAINTAINED WITHIN SAID REGISTRY.

SIGNATURE _____ TITLE _____ DATE _____

AFFIX THE BUREAU SEAL HERE

SECTION 11. For purposes of implementing the provisions of this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, including the registration of violent offenders, it shall take effect on January 1, 2007.